

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

| | | |
|-------------------------------|---|------------------------|
| JEANNE K. ENDO, |) | CIVIL NO. 03-00563 LEK |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | MEMORANDUM IN SUPPORT |
| |) | |
| UNITED PUBLIC WORKERS, AFSCME |) | |
| LOCAL 646, AFL-CIO, |) | |
| |) | |
| Defendant. |) | |
| |) | |
| vs. |) | |
| |) | |
| GARY W. RODRIGUES, |) | |
| |) | |
| Third-Party |) | |
| Defendant |) | |
| |) | |

MEMORANDUM IN SUPPORT

In the instant action, Plaintiff alleges that since she started working for Defendant United Public Workers , AFSCME Local 646, AFL-CIO (hereinafter "UPW") in or about late 1994 until on or about June 14, 2001, UPW's State Director, Third-Party Defendant Gary W. Rodrigues subjected her to a sexually hostile work environment, and that he later retaliated against her for refusing to continue a sexual relationship with him.

On October 6, 2003 Rodrigues was convicted of certain federal crimes in U.S. v. Rodrigues, Cr. No. 01-00078 DAE which are entirely unrelated to any issue connected with the manner in which Plaintiff was treated in the course of her employment with the UPW. It is submitted that any evidence of Rodrigues' conviction is irrelevant and inadmissible pursuant to Rule 402,

FRE.

The only possible purpose for allowing such evidence would be to imply that Rodrigues is a "bad man" who acted in conformity therewith in the course of Plaintiff's employment with the UPW, but the evidence clearly would result in unfair prejudice to Rodrigues, confuse the issues in this case, and/or mislead the jury. Accordingly, it is submitted that any testimony or evidence regarding Rodrigues' conviction is inadmissible pursuant to Rule 403, FRE.

Such evidence also would constitute prohibited character evidence barred by Rule 404(b), FRE.

Based on the foregoing, Third-Party Defendant Rodrigues respectfully requests that this Court issue an order barring the parties from introducing and/or otherwise eliciting any evidence at trial of Rodrigues' conviction in U.S. v. Rodrigues, Cr. No. 01-00078 DAE.

DATED: Honolulu, Hawaii, April 22, 2008.

/s/ Eric A. Seitz
ERIC A. SEITZ
LAWRENCE I. KAWASAKI
DELLA A. BELATTI

Attorneys for Third-Party
Defendant Gary W. Rodrigues